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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**
19

20 DAVID M. CATHCART, JAMES H.
WHITEHEAD, ROBERT W. DECKER, DALE
21 BALDISSERI, individually, and on behalf of all
22 others similarly situated,

Plaintiff,

23
24 v.

25 SARA LEE CORPORATION, SARA LEE
BAKERY GROUP, EARTHGRAINS BAKING
26 COMPANIES, INC. (formerly sued as DOE 1)
and DOES 2 through 20,

27 Defendants.
28

Case No. CV 09-5748 MMC

**STIPULATION FOR LEAVE TO
MODIFY THE SCHEDULING ORDER
TO EXTEND MOTION AND
DISCOVERY DATES**

~~PROPOSED~~ ORDER

The Honorable Maxine M. Chesney

Complaint filed: December 8, 2009

1 The parties stipulate as set forth in the numbered paragraphs below, based on the
2 following facts:

3 The Scheduling Order (Dkt. No. 33) set the following deadlines:

4 A. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions:

5 December 1, 2010, now January 15, 2011, per stipulated order of October 7, 2010
6 (Docket 35);

7 B. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §
8 514 and Motor Carrier Act exemptions: February 4, 2011;

9 C. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion:
10 February 25, 2011;

11 D. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: March
12 4, 2011;

13 E. Hearing on above motion(s): March 25, 2011, 9:00 a.m.;

14 F. Deadline for Plaintiffs to file motion for class certification: May 22, 2011 (a Sunday);

15 G. Deadline for Defendants to file opposition to motion for class certification: July 8,
16 2011;

17 H. Deadline for Plaintiffs to file reply on motion for class certification: August 26, 2011;

18 I. Hearing on motion for class certification: September 16, 2011, 9:00 a.m.

19 An additional defendant, Earthgrains Baking Companies, Inc., was recently added to the
20 pleadings by stipulation and order, and Earthgrains is now participating in discovery responses.

21 The parties have been pursuing discovery and meeting and conferring on further
22 responses by Defendants, as recently as the date of this stipulation.

23 Following entry of the parties' stipulated Protective Order on November 3, 2010,
24 Defendants plan to begin production of documents in response to Plaintiffs' discovery requests
25 by approximately Monday, November 8, 2010.

26 The discovery referred to above is, to a large extent, directed at the issues to be addressed
27 on the motion or motions for motion for summary judgment, i.e. Labor Code § 514 and the
28 Motor Carrier Act exemption.

1 Plaintiffs are in need of additional time for discovery on those issues in view of the
2 upcoming document production, which Plaintiffs wish to be completed before depositions on
3 those subjects, and Defendants are in accord on additional time.

4 In view of the additional time needed for discovery on those issues, it is appropriate that
5 Defendants' deadline to file its motion(s) for summary judgment on those issues should be
6 extended, as should the other deadlines in connection with the motion(s).

7 Further, to allow efficient and orderly management of the case, the parties believe there
8 should be sufficient time for additional discovery between any decision on the motion(s) for
9 summary judgment and Plaintiffs' motion for class certification, in large part because the
10 decision on summary judgment could greatly affect whether a motion for class certification will
11 be made and/or the extent and nature of the claims sought to be certified. Thus, the deadlines
12 regarding the motion for class certification should be extended to allow the parties to conduct
13 any necessary further discovery on certification issues, following a decision on the motion(s) for
14 summary judgment.

15 The parties presently believe extension of these deadlines and hearing dates as listed
16 below is necessary and appropriate and will not prejudice either party.

17 WHEREFORE, THE PARTIES STIPULATE and request that the Court order that the
18 Scheduling Order (Docket Non. 33) be modified to reflect the deadlines listed below, or to set
19 forth dates chosen by the Court:

- 20 1. Close of discovery on Labor Code § 514 and Motor Carrier Act exemptions: March 1,
21 2011;
- 22 2. Deadline for filing of Defendants' motion(s) for summary judgment on Labor Code §
23 514 and Motor Carrier Act exemptions: March 18, 2011;
- 24 3. Deadline for filing Plaintiffs' opposition to above motion(s) and cross-motion: April
25 8, 2011;
- 26 4. Deadline for reply on Defendants' motion(s) and opposition to cross-motion: April
27 15, 2011;
- 28 5. Hearing on above motion(s): May 6, 2011, 9:00 a.m.;

6. Deadline for Plaintiffs to file motion for class certification: August 12, 2011;
7. Deadline for Defendants to file opposition to motion for class certification:
September 30, 2011;
8. Deadline for Plaintiffs to file reply on motion for class certification: November 18,
2011;
9. Hearing on motion for class certification: December 9, 2011, 9:00 a.m.

SO STIPULATED.

In compliance with General Order No. 45 (X), as filing party, Defendants attest that all signatories below concur in the filing of this document.

DATED: November 5, 2010

MAYER BROWN LLP
JOHN NADOLENCO
JEROME JAUFFRET
KRISTEN ROWSE

By: /s/ John Nadolenco
John Nadolenco
Attorneys for Defendants
SARA LEE CORPORATION, SARA LEE
BAKERY GROUP and EARTHGRAINS
BAKING COMPANIES, INC.

DATED: November 5, 2010

SPIRO MOSS LLP

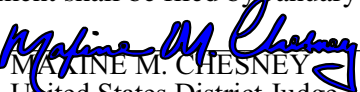
By: /s/ Ira Spiro
Ira Spiro
Attorneys for Plaintiffs

~~PROPOSED~~ ORDER

SO ORDERED as stated in paragraphs 1 through 9 above.

Additionally, the Case Management Conference is CONTINUED from October 28, 2011 to January 20, 2012; a Joint Case Management Statement shall be filed by January 13, 2012.

DATED: November 12, 2010


MAXINE M. CHESNEY
United States District Judge